

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

Criminal No. 1:01CR10

MARIA GOOTS,
Defendant.

ORDER/OPINION

On the 21st day of September 2006, came the defendant, Maria Goots, in person and by her counsel, Brian Kornbrath, and also came the United States by its Assistant United States Attorney, Shawn A. Morgan, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on September 6, 2006, alleging defendant:

1. Violated Mandatory Condition No. 1 that she not commit another federal, state or local crime, and that she not illegally possess a controlled substance; and
2. Violated Standard Condition No. 7 that she refrain from excessive use of alcohol and not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician.

The grounds for these allegations are as follows:

On August 22, 2006, the defendant furnished a urine specimen which was confirmed positive for cocaine and Oxycodone by Scientific Testing Laboratories, Inc. on August 28, 2006. (Defendant does have a valid prescription for Percocet, which would cause a positive test for Oxycodone; therefore, the Probation Officer does not consider the positive result for Oxycodone a violation.)

3. Violated Standard Condition No. 5 which required Plaintiff to work regularly at a lawful occupation unless excused by the Probation Officer for schooling, training, or other acceptable reasons. The grounds for the above alleged violation is as follows:

The defendant was terminated from her employment at Merrick Engineering on August 16, 2006, due to unexcused absences and tardiness. This information was verified by the defendant's supervisor, Rod Rogers.

4. Violated Standard Condition No. 2 that she report to the Probation Officer and submit a truthful and complete written report within the first five days of each month, in that she failed to report to the Probation Office on June 26, 2006, July 12, 2006, July 19, 2006, and August 21, 2006, as directed by the Probation Officer.
5. Violated Special Condition No. 2 that she participate in a program of testing, counseling and treatment for the use of alcohol or drugs as directed by the probation officer.

The grounds for the above alleged violation are as follows:

Upon her release from incarceration, the Probation Officer met with the defendant and directed that she attend two 60 minute substance abuse treatment sessions at Phoenix and Associates. A referral was made on September 14, 2005. The defendant's attendance has been unsatisfactory in counseling and her participation has been unacceptable. The defendant has not shown up for scheduled counseling appointments with Hilry Gordon on five occasions, and cancelled scheduled appointments on an additional two occasions. The counselor stated Defendant is chronically late for her sessions, and although trying to maintain an illusion of compliance, she has not been honest and participated fully.

The Probation Officer also reported she had filed a previous Report notifying the Court that Defendant had tested positive for morphine on June 28, 2006. The court concurred with the Probation Officer's recommendation for no revocation action at that time in lieu of the defendant continuing substance abuse treatment.

Prior to the taking of evidence, Defendant waived the preliminary hearing in writing,

conceding probable cause existed to forward this revocation matter to District Judge Irene M. Keeley for hearing and disposition.

The Court then explained the charges contained in the Petition and the effect of the proposed waiver to defendant and inquired of her as to the voluntariness of her decision to waive the preliminary hearing. From the colloquy between the Court and the defendant, the Court concludes defendant's decision to waive the preliminary hearing was knowingly, freely, and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated conditions of her supervised release as alleged and numbered 1, 2, 3, 4, and 5 of the Petition for Warrant or Summons for Offender Under Supervision filed September 6, 2006.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief Judge of the United States District Court for the Northern District of West Virginia on Violations Nos. 1, 2, 3, 4, and 5 of the Petition for Warrant or Summons for Offender Under Supervision filed September 6, 2006. It is further

ORDERED that the defendant be continued in the custody of the United States Marshal pending further proceedings herein.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: September 25, 2006.

/s *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE